

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

THURSDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE MS JUSTICE G.ROHINI

WRIT PETITION No.14267 of 2004

Between:

1. Smt. G.Victoria W/o. G.S.Rao, Aged 58 years,
Tondangi Village and Mandalam E.G. District.
2. Kalina Babu Rao S/o. Veerraju, Aged 40 years,
Thondangi Village and Mandalam East Godavari District.

..... PETITIONERS

AND

- 1 The Commissioner, Temple Lands and Endowments,
Government of A.P., Tilak Road, Hyderabad.
- 2 The Deputy Commissioner, Temple Lands and Endowments
Department, Kakinada, East Godavari District.
- 3 The Assistant Commissioner, Temple and Endowments Land
Rajahmundry, East Godavari District.
- 4 The Executive Officer, Pithapuram Endowments Lands,
Pithapuram, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ more particularly in the nature of writ of mandamus declaring the order dated 28-7-2004 in M.A.No.240 ad 245 of 2003 of R3 as it is illegal arbitrary and consequently set aside the order and further direct the respondents to sell the said lands to the petitioners as per market value in terms of High Court orders dated 29-4-1997 and 16.6.2003 in WP.Nos.8769/1997 and 11112/2003 also as per Andhra Gazette dated.13.3.2003 wherein under provision Para 5 (2) under subsection (2) 82 of the A.P. Charitable and Hindu Religious

Institutions and Endowments Act 1987.

Counsel for the Petitioner: MR.G.PAVANA MURTHY

Counsel for the Respondents 1 to 3: GP FOR ENDOWMENTS

Counsel for the Respondent No.4: _____

The Court at the admission stage made the following:

ORDER:

The petitioners, who claim to be the cultivating tenants in respect of the lands belonging to the 4th respondent, made representations before the Assistant Commissioner of Endowments, Rajahmundry claiming that they are landless poor persons. However, the Assistant Commissioner by separate orders dated 28.7.2004 in M.A. Nos.240 of 2003 and 245 of 2003 held that the petitioners are not small farmers, and therefore, they are not entitled to the relief as prayed for.

Admittedly against the said order, alternative remedy is available under the statutory rules by way of appeal before the Regional Joint Commissioner. If the petitioners are aggrieved by the orders of the Assistant Commissioner, it is open to them to prefer an appeal. Since they failed to exhaust the alternative remedy by way of appeal before the Regional Joint Commissioner, this Writ petition under Article 226 of the Constitution of India cannot be maintained.

The learned counsel for the petitioners states that the petitioners may be granted liberty to prefer appeal and that till the disposal of the appeal, the possession of the petitioners may be protected.

Having regard to the facts and circumstances of the case and having heard the learned counsel for the petitioners and learned Government pleader, the writ petition is disposed of granting liberty to the petitioners to prefer appeals against the orders dated 28.7.2004 in M.A. Nos.240 of 2003 and 245 of 2003. If any such appeals are preferred in accordance with the statutory rules, the same be considered and disposed of by the appellate authority, in accordance with law, as expeditiously as possible preferably within a period of eight weeks from the date of filing of the appeals.

Till the disposal of the appeals, *status quo* obtaining as on today, as to the nature and possession of the lands in question shall be maintained.

The writ petition is accordingly disposed of. No costs.

Date : August 12, 2004. **G. ROHINI, J**

Note:

Issue C.C. by

16.08.2004.

(B/o)

YS

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner, Temple Lands and Endowments,

Government of A.P., Tilak Road, Hyderabad.

2 The Deputy Commissioner, Temple Lands and Endowments

Department, Kakinada, East Godavari District.

3 The Assistant Commissioner, Temple and Endowments Land

Rajahmundry, East Godavari District.

4 The Executive Officer, Pithapuram Endowments Lands,

Pithapuram, East Godavari District.

5 Two CCs to the Government Pleader for Endowments,

High Court of Andhra Pradesh, Hyderabad (O.U.T)

6 Two CD copies.

